

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SHEILA KAY DAVID,

Petitioner,

vs.

ANGELA MESMER,

Respondent.

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Case No. 4:14-CV-1640 JAR

MEMORANDUM AND ORDER


This matter is before the Court on Petitioner's pro se motion for abatement (Doc. No. 10). Petitioner asks that her petition for writ of habeas corpus under 28 U.S.C. § 2254 "be put on abatement until the ruling of my Form 40¹ and a mandate issued."

On September 16, 2016, Petitioner filed a Motion to Vacate, Set Aside or Correct the Judgment or Sentence in Sheila Kay David v. State of Missouri, St. Louis City Circuit Court, Cause No. 1622-CC10573. That same day, she filed the instant motion for abatement in this Court. To the extent Petitioner seeks to stay this action in order to litigate unexhausted claims in state court, a review of the docket entries in Cause No. 1622-CC10573 indicates that her Motion to Vacate, Set Aside or Correct the Judgment or Sentence was dismissed with prejudice for failure to state a claim upon which relief can be granted on October 27, 2016. No post-judgment motions were filed, and the time for direct appeal has passed. See Mo. Sup. Ct. R. 81.04(a), 81.05(a). Thus, there are no matters pending at the state level.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's pro se motion for abatement [10] is **DENIED** as moot.

Dated this 22nd day of February, 2017.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE

¹ Petitioner is apparently referring to Missouri Criminal Procedures Form No. 40, a Motion to Vacate, Set Aside or Correct the Judgment or Sentence.